

REMARKS

Claims 1-3, 11, 12, 14 and 15, as herein amended, and claims 13 and 16 as filed, are pending. Claims 5-10, 13 and 17-22 have been withdrawn from consideration without prejudice or disclaimer in response to the restriction requirement. Applicant wishes to retain their rejoinder rights to all claims capable of rejoinder, and elect to defer making any required amendments until such time as the pending claims are acknowledged to be patentable.

Objections to the specification

Applicant has amended the first page of the specification to recite his priority claim, and respectfully contend that this amendment overcomes the asserted grounds for objection. Applicant requests the Examiner to withdraw these objections.

Claims 1, 2-4, 12, 14 and 15 stand rejected for informalities. Applicant has amended these claims in compliance with the Examiner's helpful suggestions, which are gratefully acknowledged, and respectfully contend that their amendment overcomes the asserted grounds for rejection. Applicant requests the Examiner to withdraw these rejections.

The claims, as amended, fulfill the requirements of 35 U.S.C. §112.

All pending claims stand rejected under 35 U.S.C. §112, first paragraph for failing to satisfy the enablement requirement. The Action acknowledges that the claims are enabled for detecting her2/neu in blood plasma or serum in patients having certain cancers, it asserts that the claims as filed are not enabled throughout their full scope.

Without acquiescing to the asserted grounds of rejection, Applicant has amended his pending claims to recite that his invention is directed to detecting her-2/neu in blood plasma or serum from individuals having cancer or a premalignant condition that overexpresses her-2/neu. Applicant respectfully contends that these amendments overcome the asserted ground of rejection, and request the Examiner to withdraw this ground of rejection.

Claims 1, 11 and 14 stand rejected as being indefiniteness. Applicant has amended these claims to overcome the asserted ground of rejection, and request the Examiner to withdraw these rejections.

The claims as amended are not anticipated by the cited reference.

Claims 3 and 4 stand rejected as being anticipated under 35 U.S.C. 102(b) over the Balazs reference. Applicant has cancelled claim 4, and amended claim 3 to overcome this ground of rejection. Applicant thus respectfully requests that the Examiner withdraw this rejection in view of Applicant's amendments.

The obviousness-type double patenting rejection is overcome by the Terminal Disclaimer submitted herewith.

The pending claims are rejected under the judicially-created doctrine of obviousness-type double patenting over co-owned U.S. Patent Nos. 6,916,634; 6,759,217; and 6,939,671. Applicant submits herewith a Terminal Disclaimer to overcome this ground of rejection, and respectfully requests that the Examiner withdraw this ground of rejection.

CONCLUSIONS

Applicant believes that all grounds of rejection have been overcome by amendment, and request that the pending claims be passed to issue.

If Examiner Lu believes it to be helpful, he is invited to contact the undersigned representative by telephone at (312) 913-0001.

Respectfully submitted,
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